

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Donald W. Jones, Director  
Metropolitan Council Office

DATE: **March 20, 2007**

RE: **Analysis Report**

Balances As Of:	<u><b>3/14/07</b></u>	<u><b>3/15/06</b></u>
<u>GSD 4% RESERVE FUND</u>	* \$980,000	\$1,652,890
<u>CONTINGENCY ACCOUNT</u>		
USD	\$50,000	\$50,000
<u>GENERAL FUND</u>		
GSD	\$31,120,793	\$26,413,198
USD	\$12,243,660	\$8,770,800
<u>GENERAL PURPOSE</u>		
<u>SCHOOL FUND</u>	\$37,753,270	\$17,566,775

\* Assumes estimated revenues in fiscal year 2007 in the amount of \$8,388,209

**– RESOLUTIONS –**

**RESOLUTION NOS. RS2007-1771 THROUGH RS2007-1776** (RYMAN) – These six resolutions appropriate funds from the general fund reserve fund (4% fund) to various departments. Four percent funds may only be used for the purchase of equipment and repairs to buildings. These projects were included as part of the mayor's capital spending plan, but held until adequate funding was in place. The total amount of these six resolutions is \$23,464,700. The balance in the general fund reserve fund as of March 14, 2007, was \$980,000. This consists of unrealized revenue for fiscal year 2007 in the amount of \$8,388,209. The resolutions provide that "The Director of Finance may schedule acquisitions authorized herein to ensure an appropriate balance in the Fund." Copies of the supporting information sheets required by Ordinance No. O86-1534 are attached to this analysis.

**Resolution No. RS2007-1771** appropriates \$188,000 from the general fund reserve fund to the Metro action commission for security cameras, computers, and maintenance at various Head Start Centers.

**Resolution No. RS2007-1772** appropriates \$500,000 from the general fund reserve fund to the fire department for defibrillator monitors and bunker gear equipment.

**Resolution No. RS2007-1773** appropriates \$18,754,000 from the general fund reserve fund to the general services department for miscellaneous maintenance and roof repairs, security software, a universal keying system, emergency generators, and replacement vehicles.

There is a substitute for this resolution that decreases the amount of the appropriation to \$15,546,100 to ensure that an appropriate reserve is maintained in the 4% fund. A breakdown of the vehicles to be purchased through this 4% appropriation is attached to this analysis.

**Resolution No. RS2007-1774** appropriates \$1,500,000 from the general fund reserve fund to information technology services department for hardware and software as part of the technology revolving fund.

**Resolution No. RS2007-1775** appropriates \$751,400 from the general fund reserve fund to the police department for miscellaneous digital video and camera equipment, computer equipment and software, a new Dictaphone system, bullet proof vests, guns, air conditioning equipment, a security system for the Hermitage precinct, and an explosive detection canine. The council office questions whether a dog is considered "equipment" for purposes of satisfying the Charter requirement for the use of 4% funds.

**Resolution No. RS2007-1776** appropriates \$1,771,300 from the general fund reserve fund to the public library for books, miscellaneous equipment, furniture, shelving, refinishing of wood floors at the main library, and HVAC units.

**RESOLUTION NO. RS2007-1810** (WALLACE) – This resolution appropriates \$20,000 from the general fund reserve fund (4% fund) for the purchase of a telephone call monitoring system for the Metropolitan council office. This system would record all incoming and outgoing telephone calls from each of the phones in the council office. This would mean that all calls between Members of Council or the public and council office staff would be recorded and possibly become a public record available to anyone making an open records request.

A copy of the supporting information sheet required by Ordinance No. O86-534 is attached to this analysis.

**RESOLUTION NO. RS2007-1811** (RYMAN) – This resolution authorizes the issuance of general obligation refunding bonds in an amount not to exceed \$210 million in order to obtain a more favorable interest rate and lower the debt service paid by the Metropolitan Government. The authorization of these refunding bonds pursuant to this resolution will not result in the Metropolitan Government incurring new debt, but simply provides for the refinancing of debt that is currently outstanding. As with all general obligation bonds, these refunding bonds are supported by the full faith and credit of the Metropolitan Government and are to be paid from property tax revenue. The refunding bonds will have a final maturity date of May 15, 2030.

This bond issue will refund the following bonds:

<b>Bond Type</b>	<b>Amount to be Refunded</b>
General obligation (G.O.) refunding bonds, series 1997	\$104,515,000
G.O. multi-purpose improvement bonds, series 1997A	\$27,725,000
G.O. public improvement and refunding bonds, series 1999	\$43,215,000
G.O. multi-purpose bonds, series 2003	\$15,155,000

**RESOLUTION NO. RS2007-1812** (RYMAN) – This annual resolution calls the Metropolitan board of equalization (MBOE) into regular session convening June 1, 2007, and adjourning June 15, 2007, and calls the MBOE into special session convening June 18, 2007, to complete any unfinished business regarding appeals on pro-rated assessments. The special session is not to extend beyond May 31, 2008. The MBOE always meets during the month of June to hear assessments on real property. Historically, the MBOE has been required to have special sessions to conclude their work due to the large number of appeals. State law authorizes county legislative bodies to fix the number of days the board of equalization shall sit in regular session and to call the board into special session to complete unfinished business.

**RESOLUTION NO. RS2007-1813** (EVANS & RYMAN) – This resolution ratifies an agreement with the City of Belle Meade for the distribution of street and road funds for road repairs by Belle Meade during the 2005-2006 fiscal year. The City of Belle Meade, along with the satellite cities of Oak Hill and Forest Hills, maintain the roads within their corporate limits instead of Metro public works. The cities of Goodlettsville and Berry Hill do not participate in such contracts with Metro because they do not turn over their state tax revenues to Metro. Ordinance No. O87-1935 established a procedure for the distribution of street and road funds to the eligible satellite cities, and provided that these annual contracts are to be ratified by resolution of the Metro Council with 21 affirmative votes.

Pursuant to this agreement, the City of Belle Meade will be paid \$51,000. There is a provision in the contract expressly stating that this contract shall not be used or referred to in any way as part of the satellite cities' pending lawsuit against the Metropolitan Government.

**RESOLUTION NO. RS2007-1814** (HAUSSER & RYMAN) – This resolution approves a fifth amendment to a grant from the state board of probation and parole to the Metropolitan Government for funding the Davidson County community corrections program. This program provides alternative punishments for non-violent offenders consisting of offender supervision, residential programs, and day reporting center programs. The original grant was in the amount of \$2,459,274, and was subsequently amended four times to increase the award by \$20,753, \$70,581, \$319,780 and \$338,094, respectively. This resolution further amends the grant to increase the amount by \$79,198 for a total grant award of \$3,287,600.

**RESOLUTION NO. RS2007-1815** (HAUSSER & RYMAN) – This resolution accepts a grant in the amount of \$2,000 from Wal-Mart Stores, Inc., to the Metro police department for the El Protector program.

**RESOLUTION NO. RS2007-1816** (HAUSSER & RYMAN) – This resolution accepts a grant in the amount of \$227.50 from Fred's Corporation to the Metro police department for the El Protector program.

**RESOLUTION NO. RS2007-1817** (HAUSSER & RYMAN) – This resolution approves a grant in the amount of \$90,714.92 from the U.S. department of homeland security to the mayor's office of emergency management to provide training equipment for the police academy. These funds will be used to purchase personal protective equipment consisting of chemical suits, gloves, helmets and boots. An identical grant was approved in January 2007 with a grant term through January 31, 2007. This resolution would essentially extend the grant through April 30, 2007, so that the funds can be expended.

**RESOLUTION NO. RS2007-1818** (HAUSSER & RYMAN) – This resolution approves a grant in the amount of \$125,000 from the state emergency management agency to the mayor's office of emergency management to enhance the capabilities of first responders for homeland security. These are federal pass-through funds from the U.S. department of homeland security that will be used to purchase equipment that will enhance the physical security of critical infrastructure in Davidson County to protect against a terrorist attack. The term of the grant is from January 1, 2007, through April 30, 2007.

**RESOLUTION NO. RS2007-1819** (HAUSSER & RYMAN) – This resolution approves a grant in the amount of \$272,730.43 from the Tennessee emergency management agency to the Metropolitan Government to sustain key homeland security programs. A grant in the amount of \$3,536,966 was approved in 2004 as part of the 2004 Homeland Security Appropriations Act to complete an initial strategy implementation plan to detect, prevent, and protect citizens from the threat of terrorism, and to respond to terrorist attacks. The amount of \$270,730.43 from this prior grant remains unexpended. This resolution would authorize the expenditure of the remaining funds and extend the term of the grant to April 30, 2007. There is no required local match for this grant.

**RESOLUTION NO. RS2007-1820** (GILMORE & RYMAN) – This resolution approves a grant in the amount of \$55,000 from the state department of health to the Metropolitan health department for preparedness planning in the event of pandemic influenza. These federal pass-through funds will be used to collaborate with governmental entities, businesses, and schools to raise awareness of the pandemic influenza threat, to assess preparedness and response capabilities, and to initiate community-wide preparedness efforts. These funds will also be used to purchase equipment, to assist with the planning of a hospital pandemic influenza exercise to test the response plan, and to conduct at least 4,000 telephone surveys to assess public knowledge about pandemic influenza preparedness in Tennessee.

The term of this grant is from March 1, 2007 through August 31, 2007.

**RESOLUTION NO. RS2007-1821** (GILMORE & RYMAN) – This resolution approves a grant in the amount of \$1,103,300 from the state department of health to the Metropolitan health department for sexually transmitted disease services and HIV/AIDS prevention and surveillance. This is an annual federal pass-through grant that pays the salaries of health department employees to provide these services. Pursuant to the grant agreement, the funds are to be used for HIV prevention, active surveillance of HIV/AIDS cases, diagnostic and treatment services, and disease intervention services.

The term of this grant is from January 1, 2007 through December 31, 2007.

**RESOLUTION NO. RS2007-1822** (RYMAN) – This resolution approves an amendment to an annual grant in the amount of \$315,000 from the state department of human services to the Nashville career advancement center (NCAC) to provide employability services, social adjustment services, and English language training to refugees. The term of the grant is from July 1, 2006 through June 30, 2007. Some of the services to be provided include English language training, employer outreach activities, citizenship preparation classes, school orientation programs, basic educational services, and interpreter services.

This resolution approves a housekeeping amendment revising the language pertaining to public accountability.

**RESOLUTION NOS. RS2007-1823 THROUGH RS2007-1835** – These thirteen resolutions appropriate funds from the council discretionary reserve account. The council appropriated \$1.95 million as part of the fiscal year 2006-2007 substitute operating budget to a reserve account for the council infrastructure program, nonprofit grants and other council initiatives. It was anticipated that each of the forty council members have \$48,750 in “discretionary funds” to be appropriated from the reserve account at a later date.

State law allows local government to make grants to nonprofit organizations, provided that certain information is submitted by the organization proving their eligibility for the funds, including a statement as to the proposed use of local government funding, a letter from the Internal Revenue Service evidencing its tax exempt status, and a copy of its annual audit in compliance with state law. In order to facilitate compliance with the state law requirements, the Metropolitan Code of Laws sets out specific information that nonprofit organizations must provide in order to receive Metro funding.

These requirements are as follows:

1. A copy of its corporate charter or other articles, constitution, bylaws, or instruments of organization;
2. A copy of a letter from the Internal Revenue Service evidencing the fact that the organization is a nonprofit, tax-exempt organization under the Internal Revenue Code;
3. A statement of the nature and extent of the organization's program that serves the residents of the Metropolitan Government;
4. The proposed use of the funds to be provided by the Metropolitan Government;
5. The proposed budget of the organization, indicating all sources of funds and a line-item identification of the proposed expenditure of Metropolitan Government funds;
6. A copy of the organization's audit for the most recent fiscal year.

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## **RESOLUTION NOS. RS2007-1823 THROUGH RS2007-1835** (continued)

These thirteen resolutions give grants to nonprofit organizations. The thirteen organizations to receive funding through these resolutions have provided the necessary information required by both state and local law. Additional resolutions will be forthcoming once members of council inform the council office as to how they wish to have their funds allocated and all of the required information has been received.

**RESOLUTION NO. RS2007-1823** (DREAD) appropriates \$1,000 from the reserve council infrastructure program, nonprofit grants and council initiatives account of the general fund of the general services district to the Nashville Zoo. This organization promotes environmental and species conservation by providing a world-class educational, cultural, scientific, and recreational experience. These funds will be used to purchase a scale for "Critter Encounters", an exhibit area allowing children to pet and interact with the animals who live there.

**RESOLUTION NO. RS2007-1824** (PAGE) appropriates \$2,000 from the reserve council infrastructure program, nonprofit grants and council initiatives account of the general fund of the general services district to Nashville Academy Theatre and Nashville Children's Theatre Association. This organization provides a year-round schedule of professional performances and hands-on theatre training for kids and adults. These funds will be used to offer affordable tickets to all public schools and free tickets to students from the most disadvantaged public schools in Metro Nashville.

**RESOLUTION NO. RS2007-1825** (DREAD) appropriates \$2,500 from the reserve council infrastructure program, nonprofit grants and council initiatives account of the general fund of the general services district to W. O. Smith / Nashville Community Music School. This organization provides quality music instruction for talented, interested, deserving children from low income families. These funds will be used to pay a portion of the cost of musical instrument repairs and transportation of students.

**RESOLUTION NO. RS2007-1826** (GREER) appropriates \$3,000 from the reserve council infrastructure program, nonprofit grants and council initiatives account of the general fund of the general services district to the Actors Bridge Ensemble Theatre of Nashville, Inc. This organization provides art education via training classes for actors, as well as the creation and performance of original theatre works for the general public. These funds will be used to pay a portion of the professional artists' fees for the production of "ORDINARY HEROES", an original play about Nashville's role in the struggle for civil rights.

**RESOLUTION NO. RS2007-1827** (CRAFTON) appropriates \$6,250 from the reserve council infrastructure program, nonprofit grants and council initiatives account of the general fund of the general services district to the Belle Meade Plantation. This organization's mission is to preserve and interpret the historical value of Belle Plantation and to educate the public about its significance in American culture. These funds will be used to make repairs and replace damaged wood to the exterior of the Carriage House and Stables, followed by repainting the entire exterior.

**RESOLUTION NO. RS2007-1828** (RYMAN & TOLER) – This resolution appropriates \$7,000 from the reserve council infrastructure program, nonprofit grants and council initiatives account of the general fund of the general services district to Hands On Nashville, Inc. This organization provides a variety of services that help more than 200 nonprofit, governmental, school, and faith-based organizations to meet their volunteer needs. These funds will be used to pay a portion of the salary costs for a Special Projects Manager.

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**RESOLUTION NO. RS2007-1828** (continued)

The members of council requesting this grant and the amount designated from each are as follows:

Rip Ryman	\$5,000
Parker Toler	\$2,000

**RESOLUTION NO. RS2007-1829** (RYMAN, TOLER, & OTHERS) appropriates \$9,000 from the reserve council infrastructure program, nonprofit grants and council initiatives account of the general fund of the general services district to Nashville Child Advocacy Center, Inc. This organization provides coordination of services to children and their families in times of crisis to combat child abuse. These funds will be used to pay for the cost of therapy for fourteen Metro children for three months.

The members of council requesting this grant and the amount designated from each are as follows:

Rip Ryman	\$2,040
Parker Toler	\$1,500
Charlie Tygard	\$1,460
Robert Duvall	\$1,000
Jim Hodge	\$1,000
Walter Hunt	\$1,000
Harold White	\$1,000

**RESOLUTION NO. RS2007-1830** (DREAD) – This resolution appropriates \$10,000 from the reserve council infrastructure program, nonprofit grants and council initiatives account of the general fund of the general services district to Belcourt YES! Inc. This organization has transformed the Belcourt theatre into a multi-use, multi-cultural arts center. These funds will be used to pay for part of the cost of purchasing the building.

**RESOLUTION NO. RS2007-1831** (COLE, GREER, & OTHERS) appropriates \$14,268 from the reserve council infrastructure program, nonprofit grants and council initiatives account of the general fund of the general services district to United Way of Metropolitan Nashville. This organization provides support as the fiscal agent for the Nashville Wealth Building Alliance, which is a community-based alliance of trained volunteers and affiliated financial service providers that assist low- and moderate-income families. These funds will be used to fund marketing and community-outreach activities designed to strengthen the public's knowledge of free tax preparation services.

The members of council requesting this grant and the amount designated from each are as follows:

Erik Cole	\$3,000
Ronnie Greer	\$3,000
Anna Page	\$3,000
Sam Coleman	\$2,058
Buck Dozier	\$1,500
J. B. Loring	\$1,000
Rip Ryman	\$710

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**RESOLUTION NOS. RS2007-1823 THROUGH RS2007-1835** (continued)

**RESOLUTION NO. RS2007-1832** (TYGARD) appropriates \$18,000 from the reserve council infrastructure program, nonprofit grants and council initiatives account of the general fund of the general services district to the Young Men's Christian Association (YMCA) of Middle Tennessee. The YMCA provides many programs concerning health, wellness, recreation, leadership, and education. These funds will be used to pay for part of the costs to build additional parking spots in the expansion of the Bellevue Family YMCA.

**RESOLUTION NO. RS2007-1833** (BURCH, HODGE, & OTHERS) appropriates \$27,000 from the reserve council infrastructure program, nonprofit grants and council initiatives account of the general fund of the general services district to the Association for Guidance, Aid, Placement & Empathy (AGAPE) of Nashville. This organization provides services for families and children through adoption, foster care, maternity counseling, and psychological services. These funds will be used to provide foster care for 11 or more children from Nashville for the period of April through June, 2007.

The members of council requesting this grant and the amount designated from each are as follows:

Carl Burch	\$10,000
Jim Hodge	\$5,000
Ed Whitmore	\$5,000
Buck Dozier	\$3,000
Carolyn Baldwin Tucker	\$2,000
J. B. Loring	\$1,000
Anna Page	\$1,000

**RESOLUTION NO. RS2007-1834** (BRILEY, GILMORE, & OTHERS) appropriates \$27,000 from the reserve council infrastructure program, nonprofit grants and council initiatives account of the general fund of the general services district to the Interdenominational Ministers' Fellowship Peniel Initiative. This organization provides services for victims of crimes via a collaboration of service agencies in the highest crime areas of Nashville. These funds will be used to pay for a portion of the operational costs, salaries, benefits, supplies, etc., to implement the program plan established in their strategic plan for this year.

The members of council requesting this grant and the amount designated from each are as follows:

David Briley	\$5,000
Brenda Gilmore	\$5,000
Walter Hunt	\$5,000
Carolyn Baldwin Tucker	\$5,000
Ludye Wallace	\$5,000
Edward Whitmore	\$2,000

**RESOLUTION NO. RS2007-1835** (PAGE, HODGE, & OTHERS) appropriates \$60,000 from the reserve council infrastructure program, nonprofit grants and council initiatives account of the general fund of the general services district to the Neighborhoods Resource Center. This organization provides assistance to residents in the formation and development of neighborhood organizations to improve the quality of life in their community. These funds will be used to support five classes and/or programs: the Neighborhood Organizing Assistance (NOA), Community Organization Infrastructure (continued on next page)



**RESOLUTION NO. RS2007-1835** (continued)

Network (COIN), Leadership Training and Capacity Building Workshops (LTI), Information and Technology Infrastructure Network (Info), and The Future of Neighborhoods (TFON).

The members of council requesting this grant and the amount designated from each are as follows:

Anna Page	\$25,000
Jim Hodge	\$20,000
Sam Coleman	\$10,000
Billy Walls	\$5,000

**RESOLUTION NO. RS2007-1836** (RYMAN) – This resolution authorizes the department of law to compromise and settle the lawsuit brought by Gregory S. Gaines and Gina Gaines against the Metropolitan Government for the amount of \$180,000. On September 10, 2004, a Metro police officer was responding to a call about a prisoner that had escaped from DEA agents. The police officer was traveling south down the shoulder of the northbound exit ramp at the Harding Place exit from I-65 North. When the officer reached the bottom of the ramp, he proceeded to cross multiple lanes of interstate traffic with only his blue lights activated. State law requires officers to use both blue lights and a siren when attempting such emergency measures. The officer struck the right front fender of Mr. Gaines' vehicle. Mr. Gaines drove home from the accident, but went to the hospital later that evening where he underwent surgery for a broken hip. He underwent knee surgery about a month later as a result of injuries sustained in the accident. Mr. Gaines' medical bills total \$53,182.20, and the accident resulted in \$1,890.01 in damage to his truck.

Although Mr. Gaines played seven seasons in the NFL, and had multiple prior musculoskeletal injuries resulting in 23 surgeries, Mr. Gaines' doctor testified that this accident caused some of his physical disability. The officer sustained a head injury as a result of the accident and is unable to remember many of the details surrounding the accident.

Mr. Gaines filed suit against the Metropolitan Government for the injuries sustained in the accident. His wife is also a party to the suit alleging loss of consortium. The department of law recommends settling this lawsuit for \$180,000 since Mr. Gaines' medical bills and permanent disability are undisputed, and the Metro police officer was in clear violation of state law regarding the use of emergency equipment, which is proof of negligence. Since both Mr. Gaines and his wife filed suit, the Metropolitan Government's maximum liability under the Governmental Tort Liability Act is \$500,000. If approved by the council, this amount will be paid from the self insured liability fund.

**RESOLUTION NO. RS2007-1837** (RYMAN) – This resolution modifies the existing master list of architectural and engineering firms to add three firms. The Metro Code provides that all government contracts for architect and engineering services be with firms included on the master list. This resolution simply adds the firms to the master list so that they will be eligible to bid on Metro projects. It does not mean that contracts will be awarded to the firms.

The architect/engineering firms to be added to the list are as follows:

- Core Engineering, LLC of Franklin, Tennessee
- John D. Hughes & Associates, P.C. of Nashville, Tennessee
- Snyder Williams Engineering, PLLC of Nashville, Tennessee

**RESOLUTION NO. RS2007-1838** (ADKINS) – This resolution approves a Sister City relationship with Taiyuan, People’s Republic of China and authorizes the Mayor to execute a Sister City Charter. Sister Cities of Nashville, Inc., was organized as a non-profit organization in 1991 for the purpose of promoting economic development and global understanding through official relationships with cities throughout the world. The council has officially designated Sister Cities of Nashville, Inc., to administer Nashville’s Sister Cities programs. Through Sister Cities of Nashville, Inc., Nashville has established official Sister City relationships with Caen, France; Belfast, Northern Ireland; Edmonton Canada; and Magdeburg, Germany. In October 2006, the City of Taiyuan signed a letter of intent to conduct official negotiations with Nashville to establish a Sister City relationship. The Sister Cities of Nashville, Inc., board of directors has recommended that this relationship be established.

### **PROPOSED LATE RESOLUTION**

**RESOLUTION NO. RS2007-\_\_\_\_\_** (RYMAN) – This resolution approves a grant in the amount of \$88,000 from the state department of labor and workforce development to the Nashville career advancement center (NCAC) to assist with the recruitment and training of employees at Nashville Glass Plant. Under the terms of this grant, the Tennessee career center at 621 Mainstream Drive, which is operated by NCAC, will provide an initial screening of all applicants for jobs at Nashville Glass Plant and will assist with the design of a recruitment campaign based upon a hiring schedule of 200 employees. The career center will also provide on-the-job training for approximately 100 employees. The term of the grant is from January 19, 2007, through January 18, 2008. Of the total \$88,000 grant amount, \$8,000 will be retained by NCAC for administrative expenses.

## **- BILLS ON SECOND READING -**

**ORDINANCE NO. BL2006-1065** (WALLACE) – This ordinance, as amended, amends the Metropolitan Code of Laws to prohibit chain link fences along arterial and collector streets. The code currently prohibits the use of barbed or razor wire on fences along sidewalks within the urban services district. This ordinance would essentially prohibit any chain link fence along the right-of-way of a collector or arterial street, which are the classifications used for the major streets and roads in Davidson County. This ordinance would apply to both the urban services district and the general services district, and would prohibit chain link fences in both commercial and residential areas. The ordinance expressly exempts temporary fencing and fences used around places of incarceration.

The council office would point out that this ordinance could result in a substantial cost to the Metropolitan Government, especially schools, if Metro facilities were required to have stone, brick or wood fences. A list of all arterial and collector streets, as well as a map showing the streets, has previously been provided to the council.

**ORDINANCE NO. BL2006-1262** (JAMESON) – This ordinance amends the building code to allow the installation of plumbing fixtures designed to reduce or eliminate water consumption. The code currently requires all plumbing fixtures be supplied with water. However, recent technological advancements in the plumbing fixture industry designed to conserve water have resulted in the development of the “non-water urinal,” which uses a specialized cartridge in the drain that allows waste fluids through while preventing odors from being released. This technology has been endorsed by the U.S. Green Building Council. This ordinance would allow the installation of these non-water urinals, as well as other plumbing fixtures specifically designed to reduce water consumption.

**ORDINANCE NO. BL2006-1304** (RYMAN, LORING & WHITMORE) – This ordinance names the portion of Gateway Boulevard between Davidson Street (on the east side of the Korean War Veterans Memorial Bridge) and Fourth Avenue South as “Korean War Veterans Memorial Boulevard”. In January 2006, the council renamed the Gateway Bridge as the “Korean War Veterans Memorial Bridge.” This ordinance would rename the portion of Gateway Boulevard tying the bridge into downtown to coincide with the name of the bridge.

The council office would point out that in June of last year the council renamed this portion of roadway (formerly Franklin Street) as “Gateway Boulevard”, which was five months after the bridge was named.

If the council desires to rename this section of right-of-way again, the department of public works recommends that the ordinance be amended to rename Gateway Boulevard between South Second Street and Fourth Avenue South. This ordinance has been approved by the ECD board, and referred to the planning commission.

**ORDINANCE NO. BL2007-1372** (WALLACE, JAMESON & OTHERS) – This ordinance amends the Metro code to impose a permitting process and regulations on the placement of newsracks within the public right-of-way. Although the Metro code currently prohibits encroachments from being within the right-of-way without a permit, the Metropolitan Government has not enforced these code provisions against newsracks because of First Amendment free speech concerns. This ordinance was (continued on next page)

## **ORDINANCE NO. BL2007-1372** (continued)

filed as a replacement for Ordinance No. BL2006-998, which would have prohibited any temporary or permanent encroachment in the public right-of-way without a permit from Metro. This ordinance would give the director of public works jurisdiction over permitting and regulating newsracks in the public right-of-way, and would give the public works director the authority to adopt appropriate rules and regulations to implement this ordinance.

Effective June 30, 2007, no newsrack would be allowed within the right-of-way without obtaining an annual permit from the department of public works. All persons responsible for existing newsracks within the right-of-way on June 30, 2007, must submit an application for a permit with a photograph showing proof of the current location. Those persons seeking new newsracks will have to file a permit application showing (1) the applicants name, address, and phone number; (2) the frequency of publication; and (3) the exact location on a map where the newsrack will be placed. No person or publication will be allowed more than one permit for a newsrack at any one intersection.

Along with the application, the applicant must submit a permit fee of \$50 for each single-unit freestanding newsrack, and \$10 per unit in a multi-unit fixed newsrack. A multi-unit newsrack is a newsrack that is permanently affixed to the ground and contains space for at least five publications. All permits will be issued for one year. A renewal application must be submitted within sixty days of the expiration of the permit along with a \$10 renewal fee. A permit for one location may be renewed only four consecutive times. A permit may be revoked by the public works director after 15 days written notice of a violation of this ordinance or the regulations promulgated by the director.

The ordinance provides that all permitted newsracks must be maintained in good repair and working order. Newsracks will not be permitted on any part of the right-of-way where motor vehicles are permitted, and must leave at least 36 inches of clearance for pedestrian travel. As stated above, the director of public works will have the authority to implement additional regulations pertaining to the location of newsracks that are not specifically detailed in the ordinance.

The director of public works will have the authority to seize a newsrack that is placed in the right-of-way in violation of this ordinance. Prior to seizure, the director must give written notice to the permit holder giving them 15 days to correct the violation. If the permit holder does not request a hearing and has not remedied the violation, the newsrack shall be removed from the right-of-way and stored by the department of public works. If the placement of the newsrack is installed or maintained in such a manner as to endanger any person or property, the newsrack may be removed immediately without prior notice to the permit holder. Once a newsrack is seized, the permit holder will have 30 days in which to claim the newsrack and pay a \$100 storage fee for a single freestanding newsrack or \$500 for a multi-unit fixed newsrack.

In order to withstand judicial scrutiny, the ordinance includes a detailed hearing procedure that must be followed prior to taking action against the permit holder, which gives the permit holder an opportunity to plead their case before the public works director as to why they are not in violation. A request for a hearing must be submitted to the director of public works within 5 days of receiving notice of the director's decision to deny an application, revoke a permit, or seize a newsrack. The hearing must be held within 25 days, and the permit holder may present evidence as to why the director's decision was in error. The director must render a final decision within 5 days of the hearing. The director's decision may be appealed by writ of certiorari to chancery or circuit court within 60 days from the date of the hearing. If a decision is appealed, the decision shall not take effect until the appeal proceedings have concluded.

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**ORDINANCE NO. BL2007-1372** (continued)

The council office would point out that much time and effort has gone into the preparation of this ordinance in order to protect the First Amendment rights of publications using newsracks. The council office is of the opinion that the First Amendment concerns associated with Ordinance No. BL2006-998 have been adequately addressed in this ordinance.

**ORDINANCE NO. BL2007-1373** (COLEMAN) – This ordinance amends Title 16 of the Metropolitan Code by adopting the 2006 edition of the International Residential Code for One and Two Family Dwellings. This routine ordinance update replaces the 2000 edition of this code. State law requires local governments to adopt building codes every six years. Copies of the new edition of the code are filed with the clerk.

The new version of the code includes several significant changes from the 2000 version, much of which is related to increased energy conservation requirements. In addition to the adoption of uniform code, this ordinance includes certain local amendments, the vast majority of which are already in the code.

Ordinance No. BL2007-1390, which is currently on first reading, is a companion bill that adopts codes for commercial and multi-family buildings, as well as the uniform fire, plumbing and mechanical codes.

**ORDINANCE NO. BL2007-1374** (BRILEY, COLE & OTHERS) – This ordinance amends Title 16 of the Metropolitan Code to require sustainable building design standards for new and renovated Metropolitan Government buildings and facilities. Sustainable building design standards encompass the following broad topics: efficient management of energy and water resources, management of material resources and waste, protection of environmental quality, protection of occupant health and indoor environmental quality, reinforcement of natural systems, and integrating the design approach. Although the Metropolitan Government has made a concerted effort over the past seven years to reduce energy consumption in Metro facilities and to promote site sustainability, there are no sustainable building provisions expressly contained in the building code.

This ordinance would require all new construction and renovations in excess of 5,000 square feet or exceeding \$2 million for which the planning or construction commences after August 1, 2007, to pursue LEED certification through the U.S. Green Building Council (USGBC) and to develop a strategy for LEED Silver certification. LEED is an acronym for Leadership in Energy and Environmental Design, which uses a green building rating system developed by the USGBC. The rating system contains prerequisites and credits in six categories: sustainable site planning, improving energy efficiency, conserving materials and resources, embracing indoor environmental quality, safeguarding water, and innovation in design. There are currently four different rating levels for LEED certification: Certified, Silver, Gold, and Platinum.

This ordinance would apply to all Metropolitan Government departments, agencies, boards and commissions, with the exception of the Metropolitan Board of Public Education, the Metropolitan Transit Authority and the Metropolitan Housing and Development Agency. These excepted agencies have the sole authority under the Metropolitan Charter for the erection, maintenance and improvement of their facilities. In addition, the LEED certification requirements would not apply to (continued on next page)

**ORDINANCE NO. BL2007-1374** (continued)

Metro facilities that are to remain predominately unoccupied or to serve "specialized functions" such as thermal transfer functions, solid and/or toxic waste disposal functions, water and wastewater treatment functions, warehouse/storage functions, and mechanical functions.

In the event a Metro building or facility fails to obtain the required LEED certification within two years from the date the final use and occupancy permit is issued, the council would determine by resolution whether to relieve the government of pursuing the LEED certification. Once the council adopts a resolution continuing the requirement for LEED certification, the government would have an additional year in which to obtain the certification or have the use and occupancy permit revoked.

The director of finance has refused to certify that funds are available for the implementation of this ordinance. According to the finance director's letter, mandating LEED certification would result in a 1% to 15% increase in costs to the Metropolitan Government for building construction and would require that additional employees be hired to implement the ordinance. A copy of the finance director's letter is attached to this analysis.

**ORDINANCE NO. BL2007-1375** (RYMAN) – This ordinance authorizes the Metropolitan Government to enter into a utility relocation contract with the state department of transportation (TDOT) to relocate certain department of water and sewerage services' facilities within the I-65 right-of-way between Wedgewood Avenue and Craighead Avenue. This utility relocation is necessary in order for TDOT to install noise abatement walls in the area. Metro will be responsible for 100% of the relocation costs, estimated to be \$9,000, which will be paid from the water and sewer extension and replacement fund. This is a typical agreement entered into by Metro and TDOT for the relocation of utilities associated with state highway improvement projects.

**ORDINANCE NO. BL2007-1376** (TOLER & RYMAN) – This ordinance authorizes the Metropolitan Government to enter into a participation agreement with Centex Homes to provide public sewer service to the Villas of Concord Place subdivision in Davidson County. The developers will be required to contribute \$2,000 per connection in aid of construction for a total of 76 town home connections. This \$152,000 contribution will be deposited into the water and sewer extension and replacement fund. This is a typical participation agreement entered into by the Metropolitan Government, acting through the department of water and sewerage services, whereby private property owners and/or developers contribute a portion of the cost to extend or upgrade public water and sewer service.

**ORDINANCE NO. BL2007-1377** (LORING) – This ordinance approves the adoption of the additions, deletions, and/or other amendments to the Official Street and Alley Acceptance and Maintenance Map for the Metropolitan Government made during the previous year. These amendments are submitted annually by the department of public works. The map shows the dedicated streets and alleys that were either accepted or abandoned for public maintenance by Metro.

This ordinance has been approved by the planning commission.

**ORDINANCE NOS. BL2007-1378 & BL2007-1379** – These two ordinances accept contributions from private developers/property owners for infrastructure improvements to be made by the department of public works that will enhance their developments. These funds will be deposited into a fund designated by the director of finance as a contribution towards the improvements.

**Ordinance No. BL2007-1378** (Shulman & Ryman) accepts \$83,601 from H.G. Hill Realty, LLC for the milling and resurfacing of Hillsboro Circle from Abbott Martin Road to Hobbs Road.

**Ordinance No. BL2007-1379** (Summers, Evans & Ryman) accepts \$40,000 from BMT Associates, LLC for a traffic signal at 4317 Harding Pike, which is the location of the Belle Meade Town Center development.

**ORDINANCE NO. BL2007-1380** (JAMESON) - This ordinance authorizes the SBER Development Holdings, LLC to install and maintain a stair tower encroachment to connect the Shelby Street pedestrian bridge with the ground between First Avenue South and the rail platform. The memorandum of understanding between the Sounds, Struever Bros, Eccles & Rouse (SBER) and Metro requires SBER to construct pedestrian access from the Shelby Street bridge through the mixed-use tract to the ballpark tract. This encroachment is necessary for this required pedestrian access to the bridge. SBER has agreed to indemnify the Metropolitan Government from all claims in connection with the installation and maintenance of the stairway, and is required to provide a \$1 million certificate of public liability insurance naming the Metropolitan Government as an insured party.

This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2007-1381** (HAUSSER) – This ordinance abandons the right-of-way for Alley No. 918 between 21<sup>st</sup> Avenue South and Alley No. 922. The ordinance also abandons Alley No. 922 from Magnolia Boulevard to Alley No. 918. This closure has been requested by Belmont United Methodist Church to allow for new construction. This portion of right-of-way is no longer needed for government purposes. Consent of the affected property owners is on file with the department of public works. All easements will be retained by the Metropolitan Government.

This ordinance has been approved by the planning commission and the traffic and parking commission.

**ORDINANCE NO. BL2007-1383** (CRAFTON) – This ordinance would amend the Metro Code to require that all settlement of claims against the Metropolitan Government in excess of \$1,000 be approved by the council. Currently, the department of law is authorized to settle property damage claims up to \$15,000 and all other claims up to \$5,000 without seeking approval of the council. The current settlement limits were added to the code in 1996. This ordinance would require any settlement in excess of \$1,000 to be approved by the council by resolution.

According to the department of law, this ordinance would require approximately 100 more settlement resolutions each year to be approved by the council. In addition, the department of law is concerned that this ordinance would cause persons who suffer a loss because of the negligence of the Metropolitan Government to be delayed in receiving their payment.

**ORDINANCE NO. BL2007-1384** (COLE) – This ordinance amends the Metro code to prohibit certain activities involving the disposal of excavated fill material that occur within the drainage area of a designated scenic river under the Tennessee Scenic Rivers Act of 1968. State law currently prohibits landfills for the disposal of solid or hazardous wastes within two miles from the center of a class II scenic river, which includes the Harpeth River in Davidson County. The purpose of this state law is to protect these scenic rivers from possible pollution due to the proximity of landfills. However, state law does not prohibit the use of fill material such as rock and stumps that are not considered solid waste within two miles of a scenic river.

In addition to what is already prohibited by state law, activities that involve the use of excavated fill material that occur within two miles of a scenic river would be prohibited if one or more of the following conditions exist:

1. The activity is not primarily related to a construction site under common operation that is covered under the State of Tennessee's construction general permit. The state permit does not grant coverage for potential discharge of pollutants that would cause degradation to scenic rivers.
2. The operator of the disposal fill activity site and the operator of the source fill material site is not the same.
3. The disposal fill activity is a commercial operation serving multiple unrelated construction projects by different operators.
4. The disposal fill activity operates beyond the completion of the construction activity it supports.
5. The applicant fails to describe in a comprehensive storm water pollution prevention plan appropriate controls and measures that will be implemented to control for discharges from all activities related to the excavation and disposal of fill material.

**ORDINANCE NO. BL2007-1385** (WILHOITE) – This ordinance amends the Metro code to prohibit exterior openings of buildings from being boarded-up for more than sixty days. The property standards code already requires windows and doorframes to be kept in good repair and weather tight. The only time a house should be boarded-up under the code is when the house is uninhabitable and the department of codes administration orders that it be closed by boarding-up all exterior openings. Thus, an occupied home that is boarded-up is in violation of the code already.

If a house is determined to be uninhabitable and the cost to repair the structure exceed fifty percent of its value, the codes director has the authority to order its demolition. If the structure can be repaired, the order to repair is to include a reasonable time to make the required alterations, repairs or improvements. The council office would point out that in many cases it would be difficult to adequately repair the structure within sixty days. Thus, removing the boards from the exterior openings could pose a safety hazard.

**ORDINANCE NO. BL2007-1386** (GILMORE) – This ordinance renames County Hospital Road between John Malette Drive and Briley Parkway as "Bordeaux Boulevard". The planning department staff has mailed notices of this proposed name change to all residents on this section of County Hospital Road. This ordinance has been referred to the planning commission and the ECD board.



**ORDINANCE NO. BL2007-1387** (WALLACE, DOZIER & OTHERS) – This ordinance names the grassy portion of the roundabout right-of-way located at the intersection of Division Street, 16<sup>th</sup> Avenue South, Music Square East, and Demonbreun Street, “Buddy Killen Circle”. Buddy Killen (1933-2006) was a successful musician and businessman who became president of Tree Publishing in 1974. This would not change the names of any of the above streets on the official street and alley acceptance and maintenance map, but the ordinance provides that the department of public works is to erect the appropriate signage at the roundabout designating it as “Buddy Killen Circle”.

This ordinance has been referred to the planning commission and the ECD board.

## - BILLS ON THIRD READING -

**ORDINANCE NO. BL2006-1206** (SUMMERS & JAMESON) – This zoning text change would replace the existing special exception standards for historic home events with new standards. Under the zoning code, “historic home events” must be permitted by the board of zoning appeals (BZA) as a special exception use. The zoning code defines historic home event as “the hosting of events such as, but not limited to, weddings or parties for pay at a private home which has been judged to be historically significant by the historic commission.” The code includes certain criteria that must be met in order for property to be permitted to hold these home events, such as parking standards, limited meal service, and a requirement that the home be owner-occupied. This ordinance expands these standards to limit the impact that such a use has on the surrounding neighborhood.

The proposed new standards for historic home events are as follows:

1. The event must be held at a historically significant home, which is the same as the current standard.
2. All exterior work on the structure must be approved by the historic zoning commission using the neighborhood conservation overlay design guidelines.
3. Historic home events would have to be separated by at least 1,000 feet from another historic home event.
4. If the lot is less than five acres, all aspects of the event must be located indoors. If the lot is more than five acres, events may be held outside at the discretion of the BZA. This restriction would greatly limit the ability of historic home events from being located in urban areas since all activities would have to take place indoors.
5. If the minimum parking standards require additional parking on the property, the parking must meet the perimeter parking lot landscaping requirements and the parking must be located on the property “so as not to impact the continuity of the existing neighborhood context.”
6. All lighting must be shielded from adjacent properties.
7. Meals and beverages are limited to patrons of the event only.
8. The home must be owner-occupied, and a site plan must be submitted detailing the personal living space, event preparation areas, and event location areas.
9. The BZA may limit the number and frequency of the events and may limit the number of attendees per event to minimize disturbance to surrounding properties.

This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2007-1313** (HAUSSER & BROWN) – This ordinance abandons a 10” sewer line and easement for property located at 511 Chesterfield Avenue. This sewer line and easement will be replaced with a new 8” sanitary sewer line on another part of the property. This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2007-1316** (HART) – This ordinance, as amended, amends the Metropolitan Code to enable the court to prohibit persons found in violation of the vicious dog ordinances from owning animals for a period of time the court deems reasonable. The code currently prohibits persons from keeping vicious dogs unless the dog is confined. The code defines vicious dogs as “any dog which attacks and bites a person or animal on any public or private property without provocation; any dog previously declared vicious in a court of law; or any dog owned or harbored primarily or in (continued on next page)

**ORDINANCE NO. BL2007-1316** (continued)

part for the purpose of dog fighting.” The code further provides that vicious dogs may be impounded, and, if a court determines that the dog is vicious, the dog may be (1) released; (2) implanted with an electronic microchip for identification; or (3) euthanized.

This ordinance would add another penalty provision to the code that would allow the court to prohibit the owner of a dog determined to be vicious from “owning, harboring, or having custody of companion animals for a period of time the court deems reasonable.” This provision is modeled after a similar provision recently added to the code pertaining to animal hoarding and cruelty to animals.

**ORDINANCE NO. BL2007-1318** (CRADDOCK & GOTTO) – This ordinance amends the Metropolitan Code audit provisions in accordance with the recent amendment to the Metropolitan Charter. On November 7, 2006, the voters of Davidson County approved an amendment to the charter establishing an independent department of audit for the Metropolitan Government. The charter now provides that an independent auditor is to be appointed by a majority vote of the council from a list of three persons recommended to the council by the audit committee. If the council deems that the persons recommended by the committee are not suitable, the council could reject the names and the committee would have to submit three additional names.

This ordinance essentially incorporates the language of the charter amendment into the Code. The ordinance provides that there shall be an independent agency called the division of Metropolitan audit. The Metropolitan auditor must have a well founded reputation in government or public finance, must have at least five years experience as a financial officer of a government or business, and must have an understanding of the Generally Accepted Accounting Principles and Governmental Auditing Standards Board standards. The auditor will serve an eight-year term, with the first term ending on June 30, 2014, regardless of whether the full eight years has been served. The ordinance provides that the audit committee, as it has in the past, will be composed of six members: the vice mayor, the director of finance, two members of council, one member selected by the Chamber of Commerce, and one member selected by the Nashville Chapter of the Tennessee Society of Certified Public Accountants. The ordinance expressly provides that Councilmen Gotto and Craddock will remain the two members elected by the council to serve a two year term.

**ORDINANCE NO. BL2007-1320** (PAGE & GREER) – This ordinance authorizes Nashville Data Link, Inc., to construct, install, and maintain fiber optic cable in Davidson County. Nashville Data Link, Inc., plans to construct approximately 2.19 miles of cable within Davidson County as follows: (1) from 2980 Armory Drive, east on Armory Drive to Norris Avenue; (2) along Norris Avenue to Foster Creighton Drive; (3) at Highway 155 the cable will enter an existing BellSouth manhole and proceed to Nolensville Pike; (4) along Nolensville Pike and ending at 3500 Nolensville Pike. Nashville Data Link, Inc. is to pay all costs related to the construction and maintenance of the cable. The plans and specifications for the cable must be submitted to and approved by the director of public works. Further, Nashville Data Link, Inc., must obtain a \$1 million certificate of liability insurance naming Metro as insured if the cable is installed on existing poles, or a \$10 million certificate of insurance if installation of the cable requires any excavation in the right-of-way of Metro. The mayor and the council reserve the right to repeal this ordinance at any time, and Nashville Data Link, Inc., would be required to remove the cable at their own expense.

The council has approved similar agreements with Nashville Data Link in the past. This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2007-1321** (COLEMAN, RYMAN & GREER) – This ordinance approves a lease between the Metro board of fair commissioners and Lamar Advertising Company for the continued use of space for billboard advertising at six places on the state fairgrounds premises. This is essentially the same as the previous lease with Lamar for this billboard space that expired on June 30, 2006. The term of the lease is for five years beginning August 1, 2006 and ending July 31, 2011, with Lamar paying \$119.80 a month per structure. Lamar will furnish, erect and maintain the billboards. Lamar is required to maintain \$1 million in general liability insurance and agrees to indemnify the fair board from any claims or damages arising from its negligent or intentional acts. This lease may be amended by resolution of the Metro Council receiving 21 affirmative votes.

This lease agreement has been approved by the planning commission.

**ORDINANCE NO. BL2007-1322** (HUNT) – This ordinance abandons a portion of the Hickory Hills Court right-of-way, northeast of Hickory Hills Boulevard to the end of the cul-de-sac. This closure has been requested by TLP Architects on behalf of the property owner. The adjacent property owner has agreed to build a new cul-de-sac to Metro standards for dedication to Metro, so there is no future need of the existing right-of-way. Consent of the affected property owners is on file with the department of public works. The Metropolitan Government will retain all easements. This ordinance has been approved by the planning commission and the traffic and parking commission.

**ORDINANCE NO. BL2007-1323 THROUGH 1328** – These six ordinances abandon water and sewer lines and easements that are no longer needed by the department of water and sewerage services. The ordinances provide that future amendments may be approved by resolution of the council. These ordinances have been approved by the planning commission.

**Ordinance No. BL2007-1323** (Brown) abandons a 66-inch storm sewer line and easement at the Walgreens project located at the Murfreesboro Road and Thompson Lane intersection. The existing storm sewer will be replaced by a new 72-inch storm sewer line.

**Ordinance No. BL2007-1324** (Page & Brown) abandons a 10-inch sanitary sewer line and easement at the Hillwood Bottling LLC project at 715 Thompson Lane. The existing sewer line will be converted to a private sanitary sewer line.

**Ordinance No. BL2007-1325** (Coleman & Brown) abandons an 8-inch sanitary sewer line and easement to be replaced by a new 8-inch sewer line at the Lowe's project located at the Nolensville Pike and Old Hickory Boulevard intersection. This ordinance also approves the removal of 51 feet of water main/fire service, 234 feet of fire hydrant lead, and a fire hydrant at the Lowe's site.

**Ordinance No. BL2007-1326** (Walls & Brown) abandons an 8-inch sanitary sewer line and easement at the C & S Harley Davidson dealership located at 4600 Delaware Avenue. The existing sewer line will be replaced by a new 8-inch sanitary sewer line. This sewer line relocation is necessary for the expansion of the facility.

**Ordinance No. BL2007-1327** (Loring & Brown) abandons a 10-foot public utility easement located in the vicinity of Spence Circle. This easement is no longer being used by the department of water and sewerage services.

**Ordinance No. BL2007-1328** (Greer & Brown) abandons a 20-foot public utility easement at 510 E. Iris Drive. This easement is no longer being used by the department of water and sewerage services.

**ORDINANCE NO. BL2007-1329** (BROWN) – This ordinance abandons the easement retained by Metro when alley number 1706 was closed in 1995. Ordinance No. O95-078 closed alley number 1706 between Springdale Avenue and Oxford Road. The ordinance retained all easements, but the easement located at 2307 Oxford Road and 2712 Wortham Avenue are no longer being used by the department of water and sewerage services. This ordinance simply abandons the easements.

This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2007-1330** (HUNT & BROWN) – This ordinance authorizes the acquisition of one easement for property located at Greer Road, unnumbered in Goodlettsville in conjunction with the department of water and sewerage service's project on the Carol J. Scott property. The estimated cost of the easement is \$1,500, which will be paid from the water and sewer extension and replacement fund. This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2007-1331** (WALLS, JAMESON & OTHERS) – These ordinance accepts twenty easements for various stormwater projects in Davidson County. These easements are being donated at no cost to the Metropolitan Government. This ordinance has been approved by the planning commission. Easements are being accepted for the following properties:

- Tulip Grove Road, unnumbered
- 211 Athens Way
- 600 47<sup>th</sup> Avenue North
- 1749 Glen Echo Road
- 750 Wedgewood Park Avenue
- 2624 Gallatin Pike
- 910 17<sup>th</sup> Avenue North, #201
- 314 Gallatin Pike
- 103 Charles E. Davis Boulevard
- 107 Charles E. Davis boulevard
- 101 Charles E. Davis Boulevard
- 224 Stewarts Ferry Pike
- #20 Culvert Street
- 3474 Dickerson Pike
- 304 4<sup>th</sup> Avenue South
- 315 Old Lebanon Dirt Road
- 2911 Elm Hill Pike
- 3815 Logistics Way
- 3786 Central Pike
- Route 1, Central Pike

**ORDINANCE NO. BL2007-1365** (HUNT, RYMAN & LORING) - This zoning text change would require developers electing to use the cluster lot option for subdivisions to provide recreational facilities for use by the residents. The cluster lot option allows developers to build on smaller lots if at least 15% of the gross land area within the development is designated as open space. The code does not require that the open spaces be improved with recreational facilities.

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**ORDINANCE NO. BL2007-1365** (continued)

This ordinance would require developers utilizing the cluster lot option to provide active recreational facilities on a portion of the designated open space at a rate of one facility per 25 residential lots. The ordinance defines "recreational facilities" to include tennis courts, basketball courts, playgrounds, baseball/softball diamonds, or volleyball courts.

The planning commission recommended approval of this ordinance if the following amendments are added to the bill by the council:

1. An amendment that states that the recreation facilities required under this bill shall be located within usable open space areas and prohibited from being located in natural areas with slope greater than 15%, floodplain, sinkholes, or areas that would impact cultural resources.
2. An amendment to add that the requirement for recreation facilities also applies to cluster-lot subdivisions within a PUD.
3. Flexibility in the type of recreational facilities for developments that serve more diverse or limited age groups.
4. Use of a sliding scale as to the number of facilities within larger developments.

There is a proposed substitute for this ordinance incorporating the planning commission's recommendations.

**ORDINANCE NO. BL2007-1366** (BROWN) – This zoning text change would allow signs with changeable text, graphics or displays to be erected in the commercial limited (CL) zoning district. These signs are currently permitted in the more intense commercial and industrial districts, but are prohibited in the office, mixed-use, commercial neighborhood and commercial limited districts. This ordinance would allow signs with changing graphics but would not allow video signs.

This ordinance was disapproved by the planning commission.

**ORDINANCE NO. BL2007-1369** (JAMESON, NEIGHBORS & OTHERS) - This zoning text change would permit owners of property within any downtown historic preservation district to transfer, through sale or donation, their development rights to other properties in the downtown area. In 2001, the Tennessee general assembly enacted a law enabling counties and municipalities to permit the transfer of development rights. According to the planning commission staff report, no other city or county in Tennessee has taken advantage of the transfer of development rights enabling legislation.

The planning staff was requested to prepare this ordinance as a result of the pending Westin Hotel specific plan (SP) rezoning and the historic preservation district ordinance for the lower Broadway area. The transfer of development rights is a method of protecting specific properties from development by enabling the property owners to "transfer" (through sale or donation) their unused development rights to another site. This ordinance would allow owners of property located within historic preservation districts adopted by the council to transfer their unused development rights based upon the undeveloped square footage as determined by the permissible floor area ratio (FAR) under the base zoning district. The property from which the development rights are transferred is referred to in the ordinance as a "sending site", while the property to which the rights are transferred to is referred to as a "receiving site". The receiving site can be any property within a designated  
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**ORDINANCE NO. BL2007-1369** (continued)

portion of downtown that is not within a historic overlay intended for higher-intensity development. Maps showing the permissible sending and receiving sites are included in the analysis provided by the planning department staff.

The ordinance, which closely follows the language in the state law, provides that once development rights are transferred, the sending site is no longer eligible to receive additional development rights through rezoning the property. A statement to this effect must be included on the deed to the property. Outside of the transferred permissible square footage, all other development standards such as building heights and building setbacks will continue to apply to both the sending site and the receiving site. The maximum building height at the setback for properties within the core frame (CF) zoning district, which is the base zoning district for the downtown area, is 65 feet. Buildings may be taller than 65 feet if they are setback further from the street. Thus, just because the owner of a receiving site pays for the transfer of development rights to obtain a square footage bonus does not mean the property owner will be able to construct a building that is taller than what the base zoning would allow. It would depend on the size of the lot, and the ability to set the building back further from the street.

In keeping with state law, the ordinance provides that development rights between private parties must be accomplished through negotiations in the free marketplace. If the government or a nonprofit organization is the receiving site, then the development rights may only be transferred via donation. The ordinance provides that an application for the transfer of development rights must be filed with the planning commission by both the owner/developer of the sending site and the receiving site. The development rights may only be transferred between parties by a written document, which must be recorded with the register of deeds after approval by the planning department.

The ordinance expressly states that the planning department may assess an application fee. The council office would point out that the zoning code provides that planning commission fee schedules must be approved by resolution of the council.

The council office has several concerns regarding this ordinance as drafted. As stated above, no transfer of developments rights can take place unless the planning department consents to it. While state law requires that the instrument transferring the development rights be signed by both parties and recorded with the register of deeds, there is no requirement that the transfer first be approved by the planning department. The council office recommends that this ordinance be amended to state that the application is to be submitted to the planning department for review, but that the department must sign off on the application if all of the requirements of this ordinance have been satisfied. If this ordinance is to be another incentive to developers to increase their FAR, similar to the affordable housing bonus, then the permission to transfer the development rights should be automatically granted if the criteria set forth in this ordinance are met. In addition, it is unclear from the text of the ordinance as to how the transfer of development rights will be tracked and monitored. This could make enforcement of the ordinance very difficult for the zoning administrator and department of codes administration.

There will be a proposed amendment for this ordinance addressing the concerns raised by the council office.

This ordinance has been approved by the planning commission.